

March 16 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No. DA 10-0084

BRADLEY HOWARD/HOWARD FAMILY 1995 TRUST,

Appellant and Third-Party Respondent,

v.

SHELLY WEIDOW,

Appellee and Petitioner,

v.

UNINSURED EMPLOYERS' FUND,

Appellee and Respondent/Third-Party Petitioner.

FILED

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

CORRECTED¹ NOTICE OF APPEAL

On Appeal from the Montana Workers' Compensation Court,
the Honorable James Jeremiah Shea
Cause No. WCC No. 2007-1863

¹ On March 9, 2010 this Court issued an Order in response to Appellant's original Notice of Appeal. As Appellant had stated this appeal was from a Rule 54(b) certification, this Court required either that Appellant obtain a Rule 54(b) certification order from the WCC or file a Corrected Notice of Appeal. Appellant erred in stating this appeal is from a Rule 54(b) order, and submits this corrected Notice of Appeal.

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Attorneys for Appellee and
Respondent/Third-Party Petitioner

NOTICE is given that Bradley Howard/Howard Family 1995 Trust ("Howard"), the Appellants above-named and Third-Party Respondent in that cause of action filed in the Montana Workers' Compensation Court, as Cause No. WCC No. 2007-1863, by and through his counsel of record, Browning, Kaleczyc, Berry and Hoven, P.C., hereby appeal to the Montana Supreme Court of the State of Montana from both the FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT, 2010 MTWCC 2, entered in Cause No. WCC No. 2007-1863 on January 22, 2010, and the ORDER DEEMING RESPONDENT'S MOTION TO DISMISS TO BE A MOTION FOR SUMMARY JUDGMENT, DENYING THE MOTION FOR SUMMARY JUDGMENT, AND DECLARING §39-71-520(2), MCA, TO BE UNCONSTITUTIONAL, entered in said Cause on December 31, 2008 and any subsequent order issued addressing its reconsideration.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is subject to the mediation process required by Mont. R. App. P. 7. in that it is an appeal from the Workers' Compensation Court.
2. That this appeal is not an appeal from an order certified as final under M. R. Civ. P. 54(b).
3. That the notice required by M. R. App. P. 27 will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General

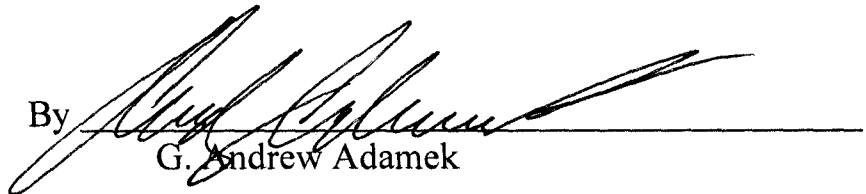
with respect to a challenge, if any, to the constitutionality of any act of the Montana Legislature.

4. That all available transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal and that Appellant has complied with the relevant provisions of M. R. App. P. 8(3).

5. That included with Appellant's original Notice of Appeal was the filing fee prescribed by statute.

Dated this 15th day of March, 2010.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By 
G. Andrew Adamek

Attorneys for Bradley Howard/Howard Family
1995 Trust

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of March, 2010, I have filed a true and accurate copy of the foregoing CORRECTED NOTICE OF APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing CORRECTED NOTICE OF APPEAL upon the Clerk of the Workers' Compensation Court and each attorney of record in the above-referenced Workers' Compensation Court Action, by both facsimile and first class mail through the United States Postal Services, postage prepaid, addressed to the following:

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